

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Confirmation No.: 5804

Ferdinand Hermann BAHLMANN et al.

Date: July 26, 2007

Serial No.: 10/522,426

Group Art Unit: 1654

Filed: March 25, 2005

Examiner: Thomas Sweeney Heard

For: **USE OF ERYTHROPOIETIN**

---

**VIA EFS-WEB**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**RESPONSE TO RESTRICTION REQUIREMENT**

Sir:

In the Office Action mailed in this case on June 29, 2007, claims 44-107 are subject to a restriction and to several species election requirements.

In particular, in accordance with 37 C.F.R. 1.499, the applicants are required to elect a single invention from among claim groups I - XII for continued prosecution in the present application. In response applicants elect, with traverse, Group III, which includes claims 46, 52, 53, 59, 65, 70 and 90 drawn to a method of wound healing.

In addition to the above, the applicants are further required (according to pp. 4-5 of the Office Action) to elect a single embodiment wherein all embodiments are particularly defined. In response to this requirement, the following species are elected:

a) route of administration: injectable. Claims 46, 52, 53, 70 and 90 are generic. No claim of Group III is directed specifically to the elected species.

b) pharmaceutical composition: aqueous solution. Claims 46, 52, 53, 59, 65, 70 and 90 are generic. No claim of Group III is directed specifically to the elected species.

c) further active ingredient: none is required. Where present, applicants elect HMG-CoA reductase inhibitor. Claims 46, 52, 53, 59, 65, 70 and 90 are generic. No claim of Group III is directed specifically to the elected species

d) EPO: human erythropoietin, wherein the erythropoietin is a derivative. Claims 46, 52, 53, 59, 65, 70 and 90 are generic. No claim of Group III is directed specifically to the elected species.

**CONTINGENT EXTENSION REQUEST**

If this communication is filed after the shortened statutory time period had elapsed and no separate Petition is enclosed, the Commissioner of Patents and Trademarks is petitioned, under 37 C.F.R. § 1.136(a), to extend the time for filing a response to the outstanding Office Action by the number of months which will avoid abandonment under 37 C.F.R. § 1.135. The fee under 37 C.F.R. § 1.17 should be charged to our Deposit Account No. 15-0700.

Respectfully submitted,

THIS CORRESPONDENCE IS BEING  
SUBMITTED ELECTRONICALLY  
THROUGH THE UNITED STATES  
PATENT AND TRADEMARK OFFICE  
EFS FILING SYSTEM  
ON JULY 26, 2007

  
\_\_\_\_\_  
Mark A. Farley  
Registration No.: 33,170  
OSTROLENK, FABER, GERB & SOFFEN, LLP  
1180 Avenue of the Americas  
New York, New York 10036-8403  
Telephone: (212) 382-0700

MAF:jl